

ANALYSIS OF AMENDED BILL

Author: Nunez Analyst: Deborah Barrett Bill Number: AB 2505
 Related Bills: See Legislative History Telephone: 845-4301 Amended Date: June 21, 2006
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT:

State Agencies Notify Office of Privacy Protection in the Department of Consumer Affairs Whenever Notification To California Residents Of Breach of Security Are Made

SUMMARY

This bill would require state agencies to notify the Office of Privacy Protection (OPP) when a notification for a breach of security is made to California residents.

This bill also contains provisions establishing the California Information Security Response Team that do not impact the department and are not discussed in this analysis.

SUMMARY OF AMENDMENTS

The June 21, 2006, amendments added the requirement for all state agencies to notify the OPP when a notification of breach of security is made to California residents is required to be made under current law. This is the department's first analysis of this bill.

PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to provide OPP with notice of the occurrence of a breach so that agency, which is charged to assist taxpayers with identity theft problems, can be prepared to help taxpayers when contacted for assistance.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2007, and operative for security breach notifications issued after that date.

POSITION

Pending

Board Position:

_____ S _____ NA _____ NP
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Department Director

Selvi Stanislaus

Date

7/11/06

ANALYSIS

STATE LAW

Current state law requires a state agency to notify a resident of California in the event their personal information has been acquired by an unauthorized person due to a breach of security of that agency's computer system. A "breach of the security of the system" is the unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information. However, an employee or agent of an agency is authorized to acquire personal information to perform his or her work duties.

Current state law defines "personal information" as a person's first name or first initial and last name, in combination with one or more of the following data elements when either the name or the data elements are not encrypted:

- 1) social security number;
- 2) driver's license number or California Identification Card number; or
- 3) account number, credit card number, or debit card number along with the required security code, access code, or password.

Personal information does not include information that is legally made available to the general public from federal, state, or local government records.

Current state law requires notification to be made in the most expedient time possible and without unreasonable delay. If the agency maintains computerized data, but does not own the data, the agency must notify the owner or licensee of the information of the breach immediately following discovery. State law requires notification to be made by any of the following methods: written, electronic, or substitute notice.

Current state law provides that any agency that maintains its own notification procedures is in compliance. Persons must be notified in accordance with those procedures and those procedures must be consistent with the timing requirements of current law.

Current state law prohibits the disclosure of any taxpayer information except as specifically authorized by statute. California law permits FTB to release individual tax return information to specific state agencies for specific purposes. Any FTB employee or member responsible for the unauthorized disclosure of state or federal tax information is subject to criminal prosecution and civil actions. Improper disclosure of state tax information is a misdemeanor and improper disclosure of federal tax information is a felony.

THIS BILL

This bill would require state agencies to notify OPP when a notification of a breach of security of a system that contains personal information is provided to California residents.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

LEGISLATIVE HISTORY

SB 852 (Bowen 2005) proposed to expand notification of breaches of security requirements to include breaches of computerized data in any format. This bill failed passage out of the Assembly Business and Professions Committee.

AB 700 (Simitian, Stat. 2002, Ch. 1054) requires a state agency to notify residents of California in the event their personal information has been acquired by an unauthorized person due to a breach of security of that agency's computer system.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

This bill would not impact state income tax revenues.

LEGISLATIVE STAFF CONTACT

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